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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,897	12/31/2003	Arthur Zavalkovsky	50325-0825	8913
29989	7590	02/04/2008	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			EL CHANTI, HUSSEIN A	
2055 GATEWAY PLACE			ART UNIT	PAPER NUMBER
SUITE 550			2157	
SAN JOSE, CA 95110				
MAIL DATE		DELIVERY MODE		
02/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/749,897	ZAVALKOVSKY ET AL.
	Examiner	Art Unit
	Hussein A. El-chanti	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/06, 8/9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to application filed on Dec. 31, 2003. Claims 1-31 are pending examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

(2) "TANGIBLE RESULT"

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a § 101 judicial exception, in that the process claim must set forth a practical application of that § 101 judicial exception to produce a real-world result.

Benson, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had “no substantial practical application.”). “[A]n application of a law of nature or mathematical formula to a ... process may well be deserving of patent protection.” Diehr, 450 U.S. at 187, 209 USPQ at 8 (emphasis added); see also Corning, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 (“It is for the discovery or invention of some practical method or means of producing a beneficial result or effect, that a patent is granted . . .”). In other words, the opposite meaning of “tangible” is “abstract.”

MPEP 2106.II.A

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

2. Claims 6-7 and 29-31, in view of the above cited MPEP sections, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts.
3. Claims 8-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-13 lack or not limited to (based on intrinsic evidence) physical articles or objects which are structurally and functionally interconnected to the code in such a manner or to establish a statutory category of invention and enable the code to act as a computer component and realize its functionality. On page 24 of the specification applicants have provided evidence that applicants intend the medium to include coaxial cable, fiber optics and wires including bus architecture.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 11, 14-15, 17, 20, 23, 26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Chu et al., U.S. Patent No. 6,016,508 (referred to hereafter as Chu).

As to claims 1, 8, 14, 20, Chu teaches a method, media and apparatus for dynamic timeout comprising machine-implemented steps of:

receiving a request from a requestor at a server or a process communicatively coupled thereto (see col. 10 lines 1-16, client sends a refresh message to the server);

determining whether an interim message should be sent to the requester (see col. 10 lines 39-67, the server determines whether a response should be sent to set the CRP); and

if the interim message should be sent to the requestor, sending to the requestor the interim message referring to the request, wherein the interim message contains one or more response-related items (see col. 10 lines 39-67, server determines the CRP interval and incorporate the CRP in the response).

As to claim 2, Chu teaches the method of claim 1, wherein the one or more response-related items comprise one or more of: time estimate related to sending a response to the request; time estimate related to sending a subsequent interim message related to the request; an indication that the request has been received by the server or the process communicatively coupled thereto, and an indication that describing whether the request is well formatted; an indication of the state that the

server is in; if processing the request involves multiple steps, an indication of the which steps of the multiple steps have already been performed; and if processing the request involves sending a second request to an external resource server, an indication of the status of the second request (see col. 10 lines 39-67).

As to claim 3, Chu teaches the method of claim 1, wherein the step of determining whether the interim message should be sent to the requestor comprises determining whether one or more of the following has occurred: the request has been received; the request has been successfully parsed; the server has begun processing the request; CPU usage of the server meets certain criteria; memory usage of the server meets certain criteria; and a queue of messages awaiting response by the server meets certain criteria (see col. 10 lines 39-67 and col. 12 lines 49-col. 13 lines 26).

As to claim 4, Chu teaches the method of claim 1, wherein the step of determining whether the interim message should be sent to the requester comprises determining whether a second request has been sent to an external resource server (see col. 10 lines 39-67 and col. 12 lines 49-col. 13 lines 26).

As to claim 5, Chu teaches the method of claim 1, wherein the step of determining whether the interim message should be sent to the requestor comprises determining whether a second response to a second request has been received at the server from an external resource server (see col. 10 lines 39-67 and col. 12 lines 49-col. 13 lines 26).

As to claims 6, 11, 17, 23, Chu teaches a method, media, apparatus for dynamic timeout comprising machine-implemented steps of: sending a request to a server; receiving an interim message from the server, wherein the interim message contains one or more response-related items; and determining whether to change a timeout value based on the one or more response-related items in the interim message (see col. 10 lines 1-37).

As to claim 7, Chu teaches the method of claim 6, wherein the one or more response-related items comprise one or more of: time estimate related to sending a response to the request; time estimate related to sending a subsequent interim message related to the request; an indication that the request has been received by the server or a process communicatively coupled thereto, and an indication describing whether the request is well formatted; an indication of the state that the server is in; if processing the request involves multiple steps, an indication of the which steps of the multiple steps have already been performed; and if processing the request involves sending a second request to an external resource server, an indication of the status of the second request (see col. 10 lines 39-67 and col. 12 lines 49-col. 13 lines 26).

As to claims 26, Chu teaches a method for dynamic timeout for an AAA server comprising machine-implemented steps of: receiving a request from a requestor at an AAA server or a process communicatively coupled thereto; determining whether an interim message should be sent to the requestor; and if the interim message should be sent to the requester, sending to the requestor the interim message referring to the

request, wherein the interim message contains one or more response-related items (see col. 10 lines 1-37).

As to claims 29, Chu teaches a method for dynamic timeout comprising machine-implemented steps of: sending a request to an AAA server; receiving an interim message from the AAA server, wherein the interim message contains one or more response-related items; and determining whether to change a timeout value based on the one or more response-related items in the interim message (see col. 10 lines 1-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 10, 12, 13, 16, 18, 19, 21, 22, 24, 25, 27, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Krantz et al., U.S. Patent No. 7,284,062 (referred to hereafter as Krantz).

As to claims 1, 8, 14, 20, Chu teaches a method, media and apparatus for dynamic timeout comprising machine-implemented steps of:

receiving a request from a requestor at a server or a process communicatively coupled thereto (see col. 10 lines 1-16, client sends a refresh message to the server);

determining whether an interim message should be sent to the requester (see col. 10 lines 39-67, the server determines whether a response should be sent to set the CRP); and

if the interim message should be sent to the requestor, sending to the requestor the interim message referring to the request, wherein the interim message contains one or more response-related items (see col. 10 lines 39-67, server determines the CRP interval and incorporate the CRP in the response).

Chu does not explicitly teach the request is a RADIUS or EAP message.

Krantz teaches a system and method for communicating between a server and a client over a network using RADIUS and EAP messages (see col. 11 lines 59-col. 12 lines 7 and col. 14 lines 22-38).

It would have been obvious for one of the ordinary skill in the art at the time of the invention to modify Chu's messages by incorporating the RADISUS and EAP protocols as used in Krantz system. Motivation to do so comes from the knowledge well known in the art would make the system more accurate and more reliable by keeping accurate track of the client's usage of the network's resources.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A. El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein Elchanti

Jan. 18, 2008


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